

Just Filed

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Plaintiff,

v.

Jorge ORTIZ-Gonzalez

Material Witness.

) Magistrate No. '08 MJ 8526

) COMPLAINT FOR VIOLATION OF:

) Title 18 U.S.C. § 3144

) F.R.Crim.P. [Material Witness]

) RELATED TO 08MJ8509

The undersigned complainant being duly sworn states:

That on or about June 5, 2008, within the Southern District of California, material witness, Jorge ORTIZ-Gonzalez did witness and observe defendant Jose Baudilo GASTELUM transport into the United States six undocumented aliens, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii). A complaint number 08MJ8509, entitled United States v. Jose Baudilo GASTELUM was issued on June 6, 2008.

The Complainant further alleges that the material witness, Jose Baudilo GASTELUM, is a citizen and native of Mexico with no legal

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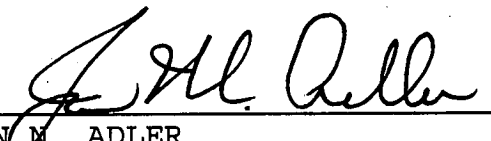
1 right to remain in the United States, and have no apparent means of
2 support or family ties. Therefore, the above-referenced material
3 witness is a material witness under Title 18, United States Code,
4 Section 3144.

5 This complainant states that this complaint is based on the
6 attached Statement of Facts incorporated herein by reference.

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8 DATED: June 11, 2008.

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10 
11 U. S. BORDER PATROL AGENT

12 SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 11TH DAY
13 OF JUNE, 2008.

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16 JAN N. ADLER
17 UNITED STATES MAGISTRATE JUDGE
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1 Material Witness
2 Jose ORTIZ-Gonzalez

3 STATEMENT OF FACTS

4 1. I am a Senior Patrol Agent with the United States Border
5 Patrol, assigned to the El Centro Sector Prosecutions Unit. This
6 affidavit is made in support of a material witness complaint,
7 pursuant to Title 18, United States Code, Section 3144, for Jose
8 ORTIZ-Gonzalez. This application seeks the Witness' detention so that
9 his testimony may be secured for trial in the Southern District of
10 California.

11 2. A complaint, number 08MJ8509, entitled United States v. Jose
12 Baudilo GASTELUM was issued on June 6, 2008, for violations of Title
13 8, United States Code, Section 1324, Transportation of Illegal Aliens
14 within the Southern District of California.

15 3. On June 5th of 2008, Border Patrol Agents of the El Centro
16 Sector observed GASTELUM as he attempted to smuggle six illegal aliens
17 for financial gain. GASTELUM was subsequently apprehended by agents
18 for his role in the smuggling scheme.

19 4. Agents observed GASTELUM driving a 1992 white Honda Accord.
20 Agents attempted to stop the Honda, but GASTELUM failed to yield to
21 the agents. A controlled tire deflation device was successfully
22 deployed on the Honda, however, GASTELUM still failed to yield to
23 agents. After the Honda finally stopped, GASTELUM ran from the Honda
24 in an attempt to abscond. Agents were able to apprehend GASTELUM.

25 5. Jose ORTIZ-Gonzalez was one of the occupants of the Honda and
26 after questioning him it was determined that he and the others in the
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1 Honda are all citizens of Mexico illegally in the United States. ORTIZ
2 and the others were placed under arrest.

3 6. At the station, ORTIZ was questioned about the incident and
4 stated GASTELUM was the driver of the Honda. ORTIZ stated GASTELUM
5 knew Border Patrol was following them and GASTELUM continued to drive
6 until he stopped the Honda and ran from it.

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8 7. Based on the foregoing, I respectfully submit testimony from
9 the Material Witness at trial will be material.

10 8. In addition, it is impractical to secure the presence of
11 Jose ORTIZ-Gonzalez by subpoena for the following reasons:

12 a. Jose ORTIZ-Gonzalez is not a citizen of the United
13 States and currently resides in Mexico with his family;

14 b. Jose ORTIZ-Gonzalez does not possess any immigration
15 documentation to be, reside or live in the United States lawfully.

16 c. Jose ORTIZ-Gonzalez has an incentive to avoid coming
17 to the United States and appearing in court as a government witness
18 as he was trying to illegally enter the United States without properly
19 filing for admittance.
20

21 9. I believe that, based on the facts set out above, there is
22 no condition or combination of conditions that would reasonably assure
23 the appearance of Jose ORTIZ-Gonzalez. Accordingly, I respectfully
24 request that a complaint be issued for Jose ORTIZ-Gonzalez.

25 WHEREFORE your complainant prays that the Court issue a material
26 witness complaint for Jose ORTIZ-Gonzalez and he be imprisoned or
27 bailed as the case may be.
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